

REMARKS

Any fees that may be due in connection with this application throughout its pendency may be charged to Deposit Account No. 06-1050.

Claims 1, 5-9, 16-19, 21-23, 40, 43-44, 46-74, 139-144, 279, 306-308, 315-316 and 332-345 are pending in this application. Claims 1, 5-9, 16-19, 21-23, 43, 44, 46-48, 51, 139-144, 279, 306-308, 315, 316, and 332-342 are amended herein for clarity, including provision of correct antecedent basis. New claims 344 and 345 are added. No new matter is added.

This response and amendment is supplemental to the election and amendment filed October 20, 2006, and is made to clarify the election of species and election of sequence made therein. In the response mailed October 20, 2006, Applicant elected, with traverse, the species of mutant corresponding to replacement of E by Q at position 41 in an interferon alpha gene family of molecules. In addition, responsive to the Restriction Requirement, Applicant also elected, with traverse, a polypeptide containing a sequence of amino acids set forth in SEQ ID NO:87, which sets forth a modified IFN- α 2b polypeptide having a single amino acid replacement in SEQ ID NO:1 corresponding to replacement of E by Q at position 41.

As noted in the response mailed October 20, 2006, Applicant argued that the requirement to elect a sequence and to elect a species are mutually exclusive. In so-stating, Applicant did not intend to imply that the election of the species and election of the sequence was an election of the same molecule. Rather, the election of the species of mutation of E by Q at position 41 in an interferon alpha molecule is an election of all species of mutation of interferon alpha molecules. These molecules are any interferon alpha molecule, including any containing other modifications, that are modified to include the E41Q mutation or a corresponding mutation. Thus, the species election is generic to the election of a sequence set forth in SEQ ID NO:87. The elected polypeptide, whose sequence is set forth in SEQ ID NO:87, is an exemplary molecule containing the species of mutation of E by Q at position 41. Hence, Applicant noted that for purposes of the response and amendments, the requirement was treated as an election of species, which is generic to the election of sequence.

In addition, it is emphasized that genus claims are linking claims. Each of claims 1, 5-9, 16-19, 21-23, 40, 43-44, 46-74, 139-144, 279, 306-308, 315-316 and 332-345 is generic to the elected species and molecule. Pursuant to MPEP §809, when claims linking more than one group are found, the Restriction Requirement must be conditioned on:

- 1) specifying the linking claims; and

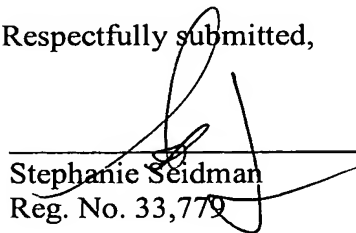
2) examining the linking claims with the elected group. The linking claims must be examined with the elected group; if the linking claims are deemed allowable, then the restriction requirement must be withdrawn and all claims directed to nonelected subject matter that depends from or includes all the limitations of the linking claims must be rejoined. Thus, claims 1, 5-9, 16-19, 21-23, 40, 43-44, 46-74, 139-144, 279, 306-308, 315-316 and 332-345 must be examined with the elected molecule or species. Upon a determination that any linking claim is allowable the restriction requirement as between that claim and all linked groups must be withdrawn.

Further, as noted above, the election of species of mutation of E by Q at position 41 is generic to the election of sequence of SEQ ID NO:87. Since the election of species is retained in this case, it links the molecule set forth in SEQ ID NO:87 and any other interferon alpha molecule that contains that mutation. If the elected species is deemed allowable, then any claim to an interferon alpha molecule containing that mutation should be examined, and should be found to be novel. Therefore, examination of all pending claims is respectfully requested.

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In view of the above, examination of the application on the merits and allowance are respectfully requested.

Respectfully submitted,



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